

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 04-1709 (DSD/RLE)

Frank Applewhite-Bey,

Plaintiff,

v.

ORDER

Lewis C. Tripoli, M.D.; Dr.
Dean Lee; and Correctional
Medical Services (CMS),

Defendants.

This matter is before the court upon plaintiff's objection to the report and recommendation of United States Magistrate Judge Raymond L. Erickson, dated August 3, 2005. In his report, the magistrate judge concluded, inter alia, that defendants' motion to dismiss for insufficiency of service of process should be granted.

The court reviews the reports and recommendations of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C). After a thorough review of the entire file and record, the court finds that the report and recommendation of the magistrate judge is well-reasoned and correctly applies the law governing defendants' motion. Therefore, the court adopts the report and recommendation of the magistrate judge in its entirety.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Defendant's motion to dismiss for insufficiency of service of process [Doc. No. 21] is granted.

2. Plaintiff's motion to amend complaint [Doc. No. 16] is denied as moot.

3. Plaintiff's motion to appoint an expert witness [Doc. No. 18] is denied as moot.

4. Plaintiff's motion to allow case to move forward [Doc. No. 29] is denied.

5. This action is dismissed without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 18, 2005

s/David S. Doty
David S. Doty, Judge
United States District Court